

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 190 OF 2007

Smt. Lalubai Mohanlal Shah
Sou. Kavita Kiran Shah ..Applicants

Vs.

State of Maharashtra
(Through the Senior Police Inspector
of Bharti Vidyapeeth Police Station,
Pune) ..Respondent

Mr. Vishal Kanade for applicants.
Ms. R.M. Gadhvi, APP for respondent-State.

CORAM: B.H. MARLAPALLE, J.

Date : January 25, 2007.

P.C.:

1. Heard Mr. Vishal Kanade the learned counsel for the applicants who had approached the Sessions Court at Pune for anticipatory bail and the same came to be rejected by the learned Additional Sessions Judge vide his order dated 6/1/2007.

2. The son of applicant no.1 Atul Shah was married to Asha about 9 years back and from the said wedlock Mast. Anmol who is presently of about 6 years old was born. The applicant no.2 is the sister of

Atul and though she is married and has her matrimonial home at Solapur, on 1/12/2006 she was admittedly at Pune and staying with the brother and mother. Asha poured kerosene on herself and set on fire. Consequently, she died on account of heavy burning on 1/12/2007 itself.

3. As of now, there is no dying declaration made by Asha but on 7/12/2006 the brother of Asha filed a complaint with the Bharti Vidyapeeth Police Station at Pune and alleged that Asha committed suicide on account of tortures, ill-treatment and the demand of money from her parents from time to time. The offence came to be registered under Sections 498-A and 306 read with Section 34 of IPC against Atul and the present applicants. Atul has been absconding. The present applicants apprehend arrest and, therefore, this application for anticipatory bail, having failed in the same before the Sessions Court at Pune.

4. I have perused the FIR in C.R. No.4 of 2006. The applicant no.2 is otherwise a resident of Budhwar Peth, Solapur and though the applicant no.1 is

originally the resident of Baramati, she has been staying with her son Atul at Pune. The applicant no.1 is of the age of 70 years plus, whereas the applicant no.2 is about 58 years of age. The applicant nos.1 and 2 have submitted an undertaking before me that they will be available for interrogation at Pune and none of them will move out of Pune for a fixed period so as to assist the police in completing the investigation as early as possible. The learned Addl. Sessions Judge rejected the anticipatory bail on the ground, inter alia, that granting such benefit will deprive the investigating machinery from conducting the investigation in the complaints of ill-treatment. Having regards to the peculiar facts of this case, I am satisfied that both the applicants could be released on anticipatory bail on certain conditions.

5. Hence the application is allowed and it is directed that in the event of arrest of each of the applicants in connection with C.R. No.4 of 2006 registered with Bharti Vidyapeeth Police Station at Pune, they shall be released on bail on furnishing PR

bond in the sum of Rs.3000/- with two solvent sureties in the like amount in each case and on the condition that both the applicants will stay at Pune for a period of two months from today or till the investigation is completed whichever is earlier.

. It is also stated that the accused no.1 Atul was injured while trying to save the deceased from burning and he is undergoing treatment. I have been assured that he will contact the concerned police station at the earliest possible.

(B.H. Marlapalle, J.)